

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**IN RE: BANKRUPTCY PROCEEDING**

**JON CHRISTOPHER EVANS CASE NO. 09-03763 NPO  
JOINTLY ADMINISTERED WITH RELATED CASES**

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**G&B INVESTMENTS, INC. PLAINTIFF**

**V. ADVERSARY PROCEEDING NO. 10-00040 NPO**

**DEREK A. HENDERSON, TRUSTEE FOR THE  
BANKRUPTCY ESTATE OF JON CHRISTOPHER  
EVANS, ET AL DEFENDANT**

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**TRUSTEE'S REPLY TO RESPONSES AND OBJECTIONS TO SETTLEMENT  
REGARDING PARCEL T-6 AND PARCELS T-2 AND T-3**

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COMES NOW Derek A. Henderson, the duly appointed Chapter 7 Trustee for the bankruptcy estate of Jon Christopher Evans, and Jointly Administered Related Cases ("Trustee"), and files this his Reply to Responses and Objections to Settlement Regarding Parcel T-6 and Parcels T-2 and T-3, and in support thereof replies as follows:

1.

This matter is before the Court upon the Trustee's Motion to Approve Compromise and Settlement Regarding Parcel T-6 and Parcels T-2 and T-3 (Case Docket No. 972 and AP Docket No. 263), Response filed by Merchants & Farmers Bank ("M&F") (AP Docket No. 299), Joinder to Merchants & Farmers Bank's Response filed by Charles H. Evans, Jr. (AP Docket No. 312) and Objection filed by Bank of Forest ("BOF") (AP Docket No. 329).

2.

There are no objections to the compromise and settlement as to Parcels T-6 and T-2. The Trustee requests approval of settlement as to Parcels T-6 and T-2.

3.

A portion of M&F's Response and the Joinder by Charles H. Evans, Jr. is related to the dismissal of M&F's Crossclaims and Third Party Complaint. This issue appears to now be resolved by Stipulation of Dismissal filed January 4, 2011 (AP Docket No. 333).

4.

The remaining issue is as to Parcel T-3 (a/k/a Tract 4E). M&F asserts that if the Trustee's Motion is granted, the only lien challenge remaining for M&F will be that of BOF (Paragraph 4 of M&F's Response). BOF objects to the Trustee's Motion and asserts that BOF has a valid lien claim to Parcel T-3 and that any recognition of M&F's lien claim is improper. BOF further asserts marshaling claims against M&F.

5.

The Trustee acknowledges that BOF has the right to assert any claims or causes of action it deems necessary. The Trustee does not intend to cut off BOF from asserting any of its rights or claims. It is noted that the Trustee recognizes that BOF asserts that its lien to Parcel T-3 should be recognized and allowed (Paragraph 30 of Trustee's Motion). Further under the terms of the settlement, it is specifically set forth that **"As to Parcel T-3 both M&F and BOF reserve all their claims, rights and defenses. This settlement agreement is not and shall not be construed as a release of claims between M&F and BOF"** (Paragraph 31(L) of Trustee's Motion).

6.

The Trustee's proposed settlement allows M&F and BOF to assert whatever claims each wishes. Ultimately, the Court shall determine the extent, priority and validity of liens between the two lenders. If the proposed language in the settlement is not sufficient to protect the rights of the parties, the Trustee has no objection to considering additional provisions or language to clarify the reservation of rights.

7.

The Trustee requests the Court to approve the settlement and to approve additional provisions as may be deemed necessary to protect the parties rights being asserted.

WHEREFORE, the Trustee requests the Court to find that his Motion to Approve Compromise and Settlement Regarding Parcel T-6 and Parcels T-2 and T-3 is well taken and should be granted and grant additional relief as may be deemed necessary by the Court.

Respectfully submitted,

BY: s/ Derek A. Henderson  
DEREK A. HENDERSON, TRUSTEE  
AND ATTORNEY FOR THE TRUSTEE

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**CERTIFICATE OF SERVICE**

I, DEREK A. HENDERSON, do hereby certify that I have this date served the foregoing Trustee's Reply to Responses and Objections to Settlement Regarding Parcel T-6 and Parcels T-2 and T-3 on January 7, 2011, via the ECF Notification Service, which provides electronic notice to the all parties of record and the following:

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s/ Derek A. Henderson  
DEREK A. HENDERSON